

REMARKS

By this amendment, Claims 24, 25, 29, and 32-34 are cancelled, Claims 26, 28, 30-31, and 35-36 are currently amended, and Claim 27 remains as previously presented. As such, Claims 26-28, 30-31, and 35-36 remain in the application.

The above-identified Office Action has been reviewed and the references carefully considered. In view hereof, the present amendment is submitted. It is contended that by the present amendment all bases of rejection set forth in the Office Action are traversed and overcome. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

The Examiner has rejected Claims 24-33 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Applicant has cancelled Claim 24, and therefore withdrawal of the rejection of Claims 24-33 is respectfully requested. The Applicant notes that portions of the rejected claim language found in the now-cancelled Claim 24 have been transferred to Claims 28, 30, and 31, however, these claims include the phrase “the plurality or each plurality” as suggested by the Examiner.

The Examiner’s rejections will be addressed in the order presented in the Detail Action section of the Office Action.

Claim Rejections 35 U.S.C. § 102(b)

The Examiner has rejected Claims 24, 25, 29, 30, and 32-36 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,261,871 to Greenfield. The Examiner has also rejected

Claims 24-29 and 31-36 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,555,562 to Holt et al.

Applicant traverses the Examiner's rejection. Under 35 U.S.C. § 102, to constitute an anticipation all the claimed elements must be found in exactly the same function and united in the same way to perform the identical function in a single unit of the prior art. Or stated differently, anticipation can only be established by a single prior art reference which discloses each and every element of the claimed invention.

By this amendment, the Applicant has amended the subject matter claimed by each claim. The amendments predominantly constitute a combination of previously presented claims. In order to help clarify the Examiner's rejection of the claims and how those rejections apply to the elements found in the currently amended claims, the Applicant offers the following arguments of patentability.

Claim 26

Claim 26 is amended herein to include the claim limitations previously presented in Claims 24-26. The Examiner has rejected Claims 24-26 as anticipated by Holt. The Applicant notes that regarding Claim 26 (and Claims 27 and 28 as well) it must be borne in mind that Claim 26 has always made it clear that the claimed clothing article is comprised of clothing material as well as the elongate resilient pieces. Conversely, in commenting upon Claim 26 (and Claim 28 as well), the Examiner refers to each elongated resilient piece as taking the form of a strip of elastomeric material which is bonded to the clothing garment, which is not what is claimed.

To that end, the Examiner interprets the word “bonded” in the claim in a manner which is clearly not intended by the Applicant. As shown in Figures 10 and 11 of the application, and as described in the specification, “[t]he elongate resilient pieces 6 shown in Figure 11 take the form of strips of elastomeric material ***bonded*** to the clothing material 1.” (page 6, lines 28-30) (emphasis added). Such language would indicate to one having ordinary skill in the art that the elastomeric materials are adhered to the clothing material by a bonding agent such as an adhesive. By doing so, the additional weight, cost, and materials associated with pockets can be avoided.

However, Holt discloses elongated pockets for receiving weight members – not weight members which are “bonded” to the suit. As shown in Figures 5 and 6 of Holt, and as described in its specification, “[t]he pockets . . . may be sewn to the suit 10 by suitable stitching threads 98 (FIGS. 5 and 6). The pockets 60-75 have respective zippers . . . for removing the weight members 80-95 to clean the suit 10, or to replace the weight members 80-95” (col. 5, lines 9-15). Thus, it is seen that Holt does not disclose strips of elastomeric material which are bonded to the clothing material as required by Claim 26.

The Examiner may argue that Figure 2 of the present invention discloses the use of pockets for securing the elongated members to the clothing material. However, as described in the Applicant’s specification, Figures 2 and 3 are directed to modified versions which are not claimed by Claim 26.

Therefore, the Applicant respectfully requests the Examiner withdraw the rejection of Claim 26.

Claim 27

The Examiner has rejected Claim 27 as anticipated by Holt. Claim 27 is dependent upon Claim 26, and is thus argued as patentable over Holt for the reasons provided above. In addition, Claim 27 furthers the distinction of Claim 26 over Holt. Even though the strips disclosed by Holt have a circular segmental cross-section providing a flat face, this is not to provide a “relatively significant area for bonding” as required by Claim 27 as discussed above. Even assuming that “bonding” as used in Claim 26 could mean connecting the strip to the clothing material by way of a pocket, the provision of a flat face giving a relatively significant area would be irrelevant to using a pocket to hold the strip.

Therefore, the Applicant respectfully requests the Examiner withdraw the rejection of Claim 27.

Claim 28

Claim 28 is amended herein to include the claim limitations previously found in Claims 24-25 and 28. The Examiner has rejected Claim 28 as anticipated by Holt. Claim 28 is substantially similar to Claim 26, only that Claim 28 requires that the “strip of elastomeric material [be] formed *integrally* with said clothing material” rather than be bonded thereto. Therefore, the Applicant references the arguments provided above regarding Claim 26 in arguing patentability over Holt. In addition, Holt discloses removable weight members which can be received by pockets sewn into the clothing material. Such removable weight members are clearly not “integrally” formed with the clothing material.

As described in the Applicant’s specification, “it may be feasible to form the strips 6 integrally with the material 1.” (page 5, lines 32-33). Thus, Claim 28 is clear that it does not

pertain to pockets for receiving removable elongated objects. The precise wording of Claim 28 not only omits the pockets (as shown in the modified versions in Figures 2 and 3 of the Applicant's specification), but also omits the bonding described and shown in Figures 10 and 11.

Rather, Claim 28 is directed to the forming of the strip as a unit with the clothing material. As understood by one having ordinary skill in the art, and as defined by Webster's Third New International Dictionary, to be "formed integrally" means to be "formed as a unit with another part." A weight that is removably placed in a pocket which is secured to a clothing material is not "formed integrally" as required by Claim 28.

Therefore, the Applicant respectfully requests the Examiner withdraw the rejection of Claim 28.

Claim 30

The Examiner has rejected Claim 30 as anticipated by Greenfield. Claim 30 is amended herein to include the claim limitations previously found in Claims 24-25 and 30.

The Applicant respectfully contends that Greenfield does not disclose an extension spring as required by Claim 30. The Examiner argues that the wire member disclosed by Greenfield can have multiple loops forming a stacked coil is capable of acting as an extension spring. The Applicant respectfully disagrees.

As understood by one having ordinary skill in the art, an extension spring is a tightly coiled spring designed to resist a tensile force. In other words, it is a spring which resists being extended. Greenfield does not disclose such a spring.

Conversely, Greenfield discloses a torsion spring. As understood by one having ordinary skill in the art, a torsion spring applies a force through the torsion or twisting motion. The primary difference between a torsion spring and an extension spring is the direction of the force being applied thereto. Such is the same distinction between the spring required by Claim 30 and the stacked coil disclosed by Greenfield. It is obvious to one of ordinary skill in the art that a torsion spring and an extension spring are not the same type of spring, and that they do not function in the same way.

The advantage to using an extension spring over a torsion spring is that an extension spring is much better able to adapt itself to the user's body contours than are the straight wire portions located distally from the stacked coil in the torsion spring. Moreover, such straight wire portions are more likely to pierce the pockets and injure the user than would an elongate piece which is in the form of a helical extension spring. Therefore the Applicant contends that Claim 30 as previously presented was patentable over Greenfield.

Nonetheless, in the event that the Examiner maintains that Claim 30 as previously presented is anticipated by Greenfield, Claim 30 is amended herein to distinguish the orientation of the helix of the present spring from that of the coil in Greenfield.

Therefore, the Applicant respectfully requests the Examiner withdraw the rejection of Claim 30.

Claim 31

Claim 31 is amended herein to include the claim limitations previously found in Claims 24-25 and 31. The Examiner has rejected Claim 31 as anticipated by Holt. Claim 31

requires elongate resilient pieces each having a substantially circular cross-section. The Examiner argues that Holt discloses as such in Figures 5 and 6.

The Applicant respectfully contends that Holt clearly does not disclose as such. As understood by one having ordinary skill in the art, and as defined by Webster's Dictionary, "circular" means "having the exact or approximate form or outline of a circle." As seen in Figures 5 and 6 of Holt, disclosed therein are members which are substantially semicircular in cross-section and not substantially circular in cross-section as required by Claim 31.

Even more so, in the rejection of Claim 27 above, the Examiner herself argued that the members disclosed by Holt have a flat face, and they therefore are not "substantially circular [in] cross-section."

Therefore, the Applicant respectfully requests the Examiner withdraw the rejection of Claim 31.

Claim 35

The Examiner has rejected Claim 35 as anticipated by both Holt and Greenfield. Claim 35 is amended herein to further define patentability over the stacked coil disclosed by Greenfield.

Claim 35 is argued as patentable over Greenfield for the same arguments presented above regarding the rejection of Claim 30 over Greenfield.

Claim 35 is argued as patentable over Holt for the same arguments presented above regarding the rejection of Claims 27, 28, and 31 over Holt.

Therefore, the Applicant respectfully requests the Examiner withdraw the rejections of Claim 35.

Claim 36

The Examiner has rejected Claim 36 as anticipated by both Holt and Greenfield. Claim 36 is amended herein to further define patentability over the stacked coil disclosed by Greenfield.

Claim 36 is argued as patentable over Greenfield for the same arguments presented above regarding the rejection of Claim 30 over Greenfield.

Claim 36 is dependent upon Claim 35, and is thus argued as patentable over Holt by virtue of its appendence to Claim 35.

Therefore, the Applicant respectfully requests the Examiner withdraw the rejections of Claim 36.

In summary it is respectfully submitted that neither Claim 30, 35, nor 36 are anticipated or rendered obvious by Greenfield. In addition, it is respectfully submitted that none of Claims 26-28, 31, 35, or 36 are anticipated or rendered obvious by Holt.

Therefore, the Applicant submits that the claims presented herein define patentably over the prior art of record herein.

Conclusion

It is respectfully submitted by entry of the amendments presented herein that all bases of rejection and objection will have been traversed and overcome, and thus, that the application will be placed in a condition for allowance. Entry of the claims as amended is, therefore, respectfully requested.

This amendment is being submitted after Final Rejection, and it is acknowledged that the Applicant does not have a right to an Examiner interview. However, the Applicant

respectfully requests the opportunity to discuss the claim amendments with the Examiner in an effort to resolve patentability by placing a telephone call to the Applicant's attorney at the number listed below.

This submission is being made in accordance with 37 C.F.R. § 1.34. The undersigned attorney is not an attorney of record, but is acting under the authority of attorney of record Arnold S. Weintraub (Reg. No. 25,523), who is currently unavailable to act on behalf of the applicant.

Respectfully submitted,

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